

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CR-43-H
No. 5:15-CV-621-H

CURTIS LEE STATON, SR.,)
)
 Petitioner,)
)
)
 v.)
)
)
UNITED STATES OF AMERICA)
)
 Respondent.)

ORDER

This matter is before the court on petitioner's motion to vacate pursuant to 28 U.S.C. § 2255, which was filed November 29, 2015. The government responded, notifying the court it is waiving all procedural defenses, including any defenses based on the statute of limitations and procedural default, and agrees that petitioner is entitled to relief on his claim pursuant to Dorsey v. United States, 132 S. Ct. 2321 (2012). The government consents to the court granting petitioner's motion to vacate and re-sentencing in accordance with the more lenient penalties of the Fair Sentencing Act of 2010.

Based on the representations and the consent contained in the government's response, the court hereby GRANTS petitioner's motion to vacate. This matter is SCHEDULED for resentencing at the court's April 12, 2016, criminal term. The petitioner shall remain in custody pending the resentencing hearing. The United States

Probation Office is DIRECTED to provide the parties and the court with a resentencing memorandum. Furthermore, the Federal Public Defender is hereby directed to continue representing petitioner in connection with the resentencing. The clerk is directed to serve a copy of this order upon the Federal Public Defender and the United States Probation Office.

This 23rd day of February 2016.

A handwritten signature in black ink, appearing to read "MALCOLM J. HOWARD", is written over a horizontal line.

MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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